

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

2006 APR 12 P 12:07

CIVIL ACTION NO. 04-10493 GAO

U.S. DISTRICT COURT
DISTRICT OF MASS.

MANUEL ROSA
Plaintiff,

v.

CITY OF BOSTON
Defendant,

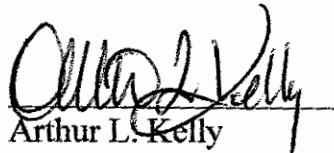
**PLAINTIFF'S MOTION IN OPPOSITION TO THE DEFENDANT
CITY OF BOSTON'S MOTION FOR SUMMARY JUDGMENT**

Now comes Manuel Rosa, Plaintiff in the above-entitled action, and hereby respectfully prays that this Honorable Court deny the Defendant, City of Boston's Motion for Summary Judgment pursuant to Fed. R. Civ. P. 56(b) as to the remaining counts of the Plaintiff's complaint. As grounds and reasons therefore, Manuel Rosa states:

1. The Plaintiff's claim for Negligent Infliction of Emotional Distress should not be dismissed because the Plaintiff was in fact physically harmed by the mere fact that he was physically 'manhandled' during the arrest(s), shackled and forcibly removed from his surroundings. And that he experienced anxiety, depression and nightmares following the arrests.
2. The Plaintiff has made the requisite showing under 42 U.S.C. § 1983 of a violation of his constitutional rights caused by a municipal custom, policy or practice by an inherent deliberate indifference of the 'booking procedure' as it relates to the continual arrest of the Plaintiff.
3. The City of Boston can be held liable under M.G.L. c. 258 because the Plaintiff has produced evidence of negligence as it relates to maintaining proper police records and/or verifying the identity of an individual arrested.

In further support of this motion, the Plaintiff submits the attached Memorandum of Law, Affidavit, Exhibits and Local Rule 56.1 Statement of Facts.

Respectfully submitted,
Plaintiff, Manuel Rosa
By his attorney,

A handwritten signature in black ink, appearing to read "Arthur L. Kelly", written over a horizontal line.

Arthur L. Kelly
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